

AMENDED IN ASSEMBLY MAY 8, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1297**

**Introduced by Assembly Member Frommer**

February 21, 2003

---

---

An act to amend Sections 1623 and 1625 of, and to add Section 1727.5 to, the Insurance Code, relating to insurance brokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1297, as amended, Frommer. Insurance: brokers.

Existing law requires every application for insurance submitted by an insurance broker to an insurer to show that the person is acting as an insurance broker. Existing law provides that, if the application shows that the person is acting as an insurance broker and is licensed as an insurance broker in the state in which the application is submitted, it shall be presumed, for licensing purposes only, that the person is acting as an insurance broker.

This bill would eliminate the provisions creating this presumption and would provide instead that it shall be conclusively presumed that a fire and casualty licensee, as defined, acted as an insurance broker in a transaction if the licensee has (1) obtained from the consumer a signed broker fee disclosure and agreement in a specified form acknowledging that the licensee has acted as an insurance broker with respect to the consumer's purchase of, or application to purchase, certain types of personal insurance coverage and any personal liability umbrella coverage associated therewith, and (2) maintained in force a bond and

liability insurance as required by other provisions of law. The bill would allow an insurer to extend binding authority to any fire and casualty licensee who complies with these provisions.

Existing law generally regulates the licensing and conduct of insurance brokers, as defined.

This bill would require that insurance brokers maintain errors and omissions liability insurance covering the broker's transactions, in an amount no less than \$250,000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1623 of the Insurance Code is amended  
2 to read:

3 1623. An insurance broker is a person who, for compensation  
4 and on behalf of another person, transacts insurance other than life  
5 insurance with, but not on behalf of, an insurer.

6 SEC. 2. Section 1625 of the Insurance Code is amended to  
7 read:

8 1625. (a) A fire and casualty licensee is a person authorized  
9 to act as an insurance agent, broker, or solicitor, and a fire and  
10 casualty broker-agent license is a license so to act.

11 (b) A fire and casualty licensee is also authorized to transact  
12 24-hour care coverage, as defined in Section 1749.02, and any  
13 coverage that a personal lines licensee is authorized to transact  
14 pursuant to Section 1625.5.

15 (c) With respect to any transaction involving a licensee, it shall  
16 be conclusively presumed that the licensee acted as an insurance  
17 broker in the transaction if the licensee has done each of the  
18 following:

19 (1) Obtained from the consumer a signed broker fee disclosure  
20 and agreement, in a form that complies with the rules and  
21 regulations adopted by the commissioner pursuant to Section  
22 790.10, acknowledging that the licensee has acted as an insurance  
23 broker with respect to the consumer's purchase of, or application  
24 to purchase, personal insurance coverage of a type described in  
25 Section 660 or 675, and any personal liability umbrella coverage  
26 associated therewith.

1 (2) Maintained in force the bond required by Section 1662 and  
2 the liability insurance required by Section 1727.5.

3 (d) An insurer may extend binding authority to any fire and  
4 casualty licensee who complies with this section.

5 (e) *Nothing in this section is intended to affect any rights or*  
6 *remedies otherwise available under the law.*

7 SEC. 3. Section 1727.5 is added to the Insurance Code, to  
8 read:

9 1727.5. Every licensee acting as an insurance broker shall  
10 maintain errors and omissions liability insurance covering  
11 transactions of the licensee, in an amount no less than two hundred  
12 fifty thousand dollars (\$250,000).

13 SEC. 4. *Nothing in this act shall affect any existing litigation*  
14 *commenced prior to the effective date of this act.*

